

# 5 Reclamations

## Overview

Section 1 defines reclamation and provides some background information on the subject. Section 2 covers an RDFI's liability in the reclamation process. Topics include full and limited liability, calculating the limited liability amount, and exception to the liability rule. Section 3 gives RDFIs guidance on processing reclamations and provides an updated contact list for individuals needing additional information/assistance with reclamations.

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## Section 1: Background

Reclamation is a procedure used by the Federal government (government) to recover benefit payments made through the Automated Clearing House (ACH) to the account of a recipient who died or became legally incapacitated or a beneficiary who died before the date of the payment(s).

The government's right to reclaim funds is established in Title 31 of the Code of Federal Regulations Part 210, Subpart B, Section 210.10(a). The government's reclamation process is found in 31 CFR 210.9 through 210.14. The reclamation provisions of 31 CFR 210 completely preempt the reclamation provisions of the NACHA Operating Rules with respect to Federal benefit payments.

By accepting a recurring benefit payment from the government, a receiving depository financial institution (RDFI) agrees to the provisions of 31 CFR 210, including the reclamation actions and debiting of the RDFI's Federal Reserve Bank account for any reclamation for which it is liable. This liability provision of the Federal reclamation regulations is part of the contract between the government and the RDFI. The two parties thereby agree to share liability for post-death payments. This contract is renewed by the RDFI each time it accepts an ACH enrollment and is agreed to by reference each time it credits an ACH payment on behalf of a depositor.

**Note:** In this chapter, "death" always means the death or legal incapacity of a recipient or the death of a beneficiary. And "government" always means the Federal government.



## Payments Subject to Reclamation

Only government benefit payments are subject to reclamation.

### Payments Subject to Reclamations

Social Security benefit or disability (SSA)  
 Supplemental Security Income (SSI)  
 Black Lung disability (Dept. of Labor)  
 Military and Coast Guard retirement,  
 including allotments from military retired  
 pay (DFAS)  
 Civil Service annuity (OPM)  
 Veterans benefits (VA)  
 Railroad retirement annuity (RRB)  
 Central Intelligence Agency annuity (CIA)  
 Workman's compensation (FECA)  
 Longshoremen's and Harbor Workers  
 Compensation Act (Dept. of Labor)  
 Any other Federal retirement or annuity

### Payments not Subject to Reclamations

Federal salary, allotments and travel payments  
 U.S. Savings bond payments  
 Vendor/miscellaneous payments  
 IRS tax refunds  
 Discretionary allotments  
 Public Debt payments (*TreasuryDirect*)  
 Other types of Federal ACH payments

*For post-death payments not affected by reclamation, adjustments are made only between the authorizing Federal agency and the recipient's survivors or estate.*

Agencies that initiate reclamations must do so within 120 calendar days after the date that the agency receives notification of the death.

An RDFI is not liable for any post-death payments made more than six years prior to the most recent payment, except under the following circumstance:

**"If the account balance at the time the RDFI receives the notice of reclamation exceeds the total amount of all post-death or post-incapacity payments made by the agency during such six-year period, this limitation shall not apply and the RDFI shall be liable for the total amount of all payments made, up to the amount in the account at the time the RDFI receives the notice of reclamation and has had a reasonable opportunity (not to exceed one business day) to act on the notice."** [31 CFR Part 210.10(d)]

It is important that RDFI's understand the reclamation process and the associated liabilities. RDFI liability is discussed in Section 2. Section 3 provides RDFI guidance on processing reclamations.

**Note:** Recipients may be receiving multiple benefit payments from the same or different Federal agencies.



## Section 2: Liability of a Receiving Depository Financial Institution (RDFI)

### A. Full Liability

An RDFI is liable for **ALL** benefit payments received after the death or legal incapacity of a recipient or death of a beneficiary unless the RDFI meets the qualifications for limiting its liability (see below).

An RDFI has no right to limit its liability with respect to post-death benefit payments received after it knows of the death or incapacity of a recipient or the death of a beneficiary and has had a reasonable opportunity (i.e., one business day) to act on that knowledge.

The RDFI must immediately notify the paying agency(s) if the RDFI learns of the death from a source other than notice from that agency. An RDFI must immediately return any post-death benefit payment received after learning of the death, regardless of how the death was discovered.

**Note:** An ACH return using reason code R15 constitutes proper notification to the Federal agency. However, if no post-death payment has been received at the time the RDFI learns of the death, the RDFI may also contact the paying agency (see Contacts, Chapter 8).



### B. Limiting Liability

An RDFI may qualify to limit its liability by full compliance with the regulations if it:

- had no actual or constructive knowledge\* of the death at the time of the deposit or withdrawal of any post-death benefit payments.
- returns all post-death benefit payments it receives after it learns of the death.
- responds to the Notice of Reclamation (reclamation) so that it is received by the Government Disbursing Office within 60 days of the date on the reclamation.

**\*Note:** In this chapter “constructive knowledge” of the death means that the RDFI would have learned of the death if it had followed commercially reasonable business practices. e.g., receiving notice of death in the mail demonstrates “constructive knowledge”, even if the RDFI fails to open the notice received.



### Exception to Liability Rule

An RDFI is not liable for post-death benefit payments sent to a recipient acting as a representative payee or fiduciary on behalf of a beneficiary, if the beneficiary was deceased at the time the authorization (Direct Deposit enrollment) was executed and the RDFI did not have actual or constructive knowledge of the death of the beneficiary.

### C. Calculating the Limited Liability Amount

If an RDFI qualifies for **limited liability**, the amount for which an RDFI can be debited is the amount of the account balance at the time the RDFI first receives notice of death (which could be the Notice of Reclamation) plus the **45-day amount**.

The **45-day amount** is the dollar amount of the post-death benefit payments received within 45 calendar days following the death.



**Note:** The limited liability amount may not exceed the outstanding total. The outstanding total is the total of all the unreturned post-death payments.

**Table 2-A Calculating the Limited Liability Amount**

**Example 1: Four payments of \$200 each were received after death.** The first payment was received within 45 days after the date of death (i.e., 45-day amount = \$200). The RDFI had no actual or constructive knowledge at the time the post-death payments were received or withdrawn.<sup>1</sup> No additional payments were received after the RDFI had knowledge.<sup>2</sup>

	Ex. 1	Ex. 2	Ex. 3	Ex. 4	Ex. 5
Total Amount of post-death payments on the Notice of Reclamation	\$ 800	\$ 800	\$ 800	\$ 800	\$ 800
Amount of the Account Balance paid by RDFI in response to the Notice of Reclamation <sup>3</sup>	\$ 300	\$ 300	\$ 750	\$ 0	\$ 800
Amount due from withdrawers	\$ 500	\$ 500	\$ 50	\$ 800	\$ 0
Amount collected by government from withdrawers	\$ 250	\$ 500	\$ 0	\$ 0	\$ 0
Outstanding total	\$ 250	\$ 0	\$ 50	\$ 800	\$ 0
Amount to be debited from the RDFI's Federal Reserve account = (lesser of Outstanding Total or 45-day amount)	\$ 200	\$ 0	\$ 50	\$ 200	\$ 0

<sup>1</sup> RDFI had no actual or constructive knowledge of the death at the time of deposit or withdrawal of any post-death benefit payments.

<sup>2</sup> RDFI returns all post-death benefit payments it receives after it learns of the death.

<sup>3</sup> RDFI accurately responds to the Notice of Reclamation so that the appropriate amount is received by the Government Disbursing Office within 60 days of the date on the Notice.

**Example 2: Four payments of \$200 each were received after death.** *Three of the payments were received before the RDFI had actual or constructive knowledge of the death.<sup>1</sup> The 4th payment was received by the RDFI after it had received a DNE and the RDFI promptly returned the payment using an R15 return reason code.<sup>2</sup> The 1st and 2nd payments were received within 45 days following the date of death (4th payment will not be listed on the Notice of Reclamation since it was promptly returned by the RDFI).*

	Ex. 1	Ex. 2	Ex. 3	Ex. 4	Ex. 5
Total Amount of post-death payments on the Notice of Reclamation	\$ 600	\$ 600	\$ 600	\$ 600	\$ 600
Amount of the Account Balance paid by RDFI in response to the Notice of Reclamation <sup>3</sup>	\$ 300	\$ 300	\$ 550	\$ 0	\$ 600
Amount due from withdrawers	\$ 300	\$ 300	\$ 50	\$ 600	\$ 0
Amount collected by government from withdrawers	\$ 50	\$ 300	\$ 0	\$ 0	\$ 0
Outstanding total	\$ 250	\$ 0	\$ 50	\$ 600	\$ 0
Amount to be debited from the RDFI's Federal Reserve account = (lesser of Outstanding Total or 45-day amount)	\$ 250	\$ 0	\$ 50	\$ 400	\$ 0

<sup>1</sup> RDFI had no actual or constructive knowledge of the death at the time of deposit or withdrawal of any post-death benefit payments.

<sup>2</sup> RDFI returns all post-death benefit payments it receives after it learns of the death.

<sup>3</sup> RDFI accurately responds to the Notice of Reclamation so that the appropriate amount is received by the Government Disbursing Office within 60 days of the date on the Notice.

## Section 3: Reclamation Procedures

### A. Notification of Death

Notification of death by any source constitutes notification for all Federal benefit payments received by the recipient. This includes notification of death by survivors, executors, or Federal agencies. The following are some of the ways that RDFIs may learn of the death of their account holders:

- Receipt of a Death Notification Entry (DNE) — an ACH notice of death from an originating government agency [e.g., SSA, RRB, or OPM] to the RDFI.
- Receipt of a government Notice of Reclamation.
- Any contact from or reference to an Estate, or an Executor, Administrator, Public Administrator, Personal Representative, or other representative of such Estate.
- A pertinent reference to or from a Probate Court, a funeral home, or Letters Testamentary.\*
- Any oral or written report of death.
- Any death information obtained by the RDFI's inquiry into a dormant account, or through other RDFI internal screening processes.
- Any personal awareness of the death by the RDFI's staff.

### Applicable Federal Regulation 31 CFR 210

#### ***This regulation defines when an RDFI has actual or constructive knowledge of the death:***

An RDFI has actual knowledge of the death or legal incapacity of a recipient or the death of a beneficiary when it receives information, through whatever means, that the recipient has died and has had a reasonable opportunity to act on such information. An RDFI has constructive knowledge if the institution would have learned of the death if it had followed commercially reasonable business practices. [31 CFR Part 210.2(b)]

The phrase “commercially reasonable business practices” is a flexible concept since, for example, what is a commercially reasonable practice for a large bank may not be commercially reasonable for a small rural bank, and vice versa.

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\* A document which names the executor or administrator of a deceased person's estate and is issued by a court. A certified copy of the Letters Testamentary must contain a raised seal or stamp from the clerk or court issuing the letter.



### ***What to do upon Notification of Death with Payments Already Posted and Subsequent Payments***

When an RDFI receives actual or constructive knowledge of the death it may decide to await a Notice of Reclamation before returning the already credited post-death payment(s). However, the RDFI must immediately return all subsequent (i.e., subsequent to receiving notice of death) post-death benefit payments to the Government Disbursing Office by ACH with notification that the recipient is deceased. No further withdrawals of post-death Federal benefit payments may be allowed.

When returning payments, the RDFI must be careful to use the correct return reason code:

#### **R15 Beneficiary or Account Holder (Other than a Representative Payee) Deceased**

The beneficiary is the person entitled to the benefits and is deceased or the owner of the account is deceased.

#### **R14 Representative Payee Deceased or Unable to Continue in that Capacity**

The representative payee is either deceased or unable to continue in that capacity. The beneficiary is not deceased.

**Note:** See Chapter 4, Returns, for more information on DNEs. Care should be taken when “flagging” accounts in response to DNEs. Specifically when the account is a joint account.



Any information of the death received by the RDFI or any of its employees, from whatever source, establishes the full legal liability for ALL SUBSEQUENT Federal benefit payments *from all agencies*, as well as any post-death benefits in the account which the RDFI then allows to be withdrawn.

This includes funds withdrawn by executors or other representatives of the deceased person's estate. Any release to an executor or other party clearly acting on behalf of the deceased person or his/her estate will be deemed by the government to have demonstrated the RDFI's knowledge of the death.

If the RDFI decides to await a Notice of Reclamation before returning post-death benefit payments received prior to its learning of the death, it still must immediately return to the government by ACH all subsequent payments (i.e., payments it received after it had actual or constructive knowledge of the death). If the RDFI fails to return subsequent post-death payments, the RDFI will not qualify to limit its liability (i.e., the RDFI will be fully liable for all post-death payments). If the RDFI returns any post-death benefit payments to the government before it receives a Notice of Reclamation, we suggest, but do not require, that the RDFI notify the account owners as a courtesy.

If at the time the RDFI first receives information of death, all or part of the post-death benefit payments have already been withdrawn from the account, the government does not authorize the RDFI to try to recover the funds from the withdrawer. If the RDFI does so, it acts under its own authority in terms of its contract with its depositor or under state law.

### ***Holding Payments***

Under no circumstances should an RDFI hold payments indefinitely in a suspense account, or by any other means, nor should payments otherwise be held if any of the conditions apply on when to return a payment. Holding payments may constitute a breach of the RDFI's warranty for the handling of Federal government ACH payments under 31 CFR 210 and could result in an RDFI's inability to limit liability.

### ***Repayment by Survivors***

If the survivors or other withdrawers state that the withdrawn post-death payments have already been repaid to the Federal agency, the RDFI should obtain a written confirmation from those persons, including a copy of the front and the back of the check(s).

If all post-death payments have been repaid by the survivor(s), the RDFI should not receive a Notice of Reclamation. If a Notice of Reclamation is received, the RDFI must return it to the Government Disbursing Office which issued it, attaching an explanation and any other documentation it has. The RDFI will not be held liable for any post-death payments which have already been repaid to the originating agency.

### ***Handling Survivor Requests not to Return Post-death Benefit Payments***

The RDFI may be asked by the survivor(s) not to return post-death benefit payments because the survivor is still entitled to all or part of the payments. In such cases, the RDFI should tell the survivor to contact the appropriate Federal benefit agency with any questions.

## **B. Notice of Reclamation**

The Notice of Reclamation (FMS-133), initiates the recovery of post-death benefit payments that have not been returned to the government.

The Notice of Reclamation is mailed to the RDFI by the Government Disbursing Office upon instructions from the authorizing Federal agency.

The Notice of Reclamation is mailed to the RDFI's address listed on the Treasury's Master File for that routing number. Each RDFI is responsible for updating any address changes needed to Treasury's Master File (see Chapter 2, page 2-2, Financial Organization Master File). Failure to do so may result in a debit to the RDFI's Federal Reserve account because the Notice of Reclamation was mailed to an obsolete address.

### ***Notice of Reclamation (Form FMS-133)***

The Notice of Reclamation advises the RDFI of...

- the date of death or legal incapacity;
- the amount of post-death payment(s) for which the RDFI may be liable;
- the identity of each payment(s) in question, including:
  1. name of the recipient
  2. individual ID or claim #
  3. date of the payment(s)
  4. Federal agency that authorized the payment(s) and the type of payment(s)
  5. payment trace number(s)
  6. type of account (checking/savings) to which the payment(s) was made
  7. depositor account number
  8. amount of the payment(s).

The FMS-133 consists of six parts:

- Part 1- Program Agency Copy
- Part 2- Program Agency File Copy
- Part 3- RDFI Copy
- Part 4- Disbursing Office Copy
- Part 5- Notice to Account Owners Copy
- Part 6- Disbursing Office Pending Copy (RDFI does not receive Part 6)

**Note:** *RDFIs will receive Parts 1 through 5.*



**Notice of Reclamation (FMS-133), FRONT**

Sample: Parts 1-4 The following sample is the same for the Program Agency Copy, Program Agency File Copy, RDFI Copy and Disbursing Office Copy.

For Feedback Redaction Act Statement and Burden Estimate Statement See Reverse Side "Notice to Account Owners" Copy				OMB NO.: (1510-0043) Expiration Date: 02/28/2000	
<b>DIRECT DEPOSIT</b> <b>ELECTRONIC FUNDS TRANSFER</b> <b>FEDERAL RECURRING PAYMENTS</b>			FROM:		
<b>NOTICE OF RECLAMATION</b>			DATE:		
RECIPIENT AND/OR BENEFICIARY NAME			CLAIM NUMBER		DATE OF DEATH
DATE OF PAYMENT	AGENCY AND/OR TYPE OF PAYMENT	TRACE NUMBER	TYPE OF ACCOUNT	DEPOSITION ACCOUNT NUMBER	AMOUNT
AMOUNT OF PAYMENTS RECEIVED WITHIN 45 DAYS			OUTSTANDING TOTAL		
<b>A</b> Immediately mail NOTICE TO ACCOUNT OWNERS (last copy of this form) to current address of the account owner. Inform the account owner(s) of any action your financial institution has taken or intends to take. Sign Certification No. 1 on the back of the DISBURSING OFFICE COPY.					
<b>B</b> Correct any error in the fact of death, date of death and/or outstanding total on the back of the DISBURSING OFFICE COPY.					
<b>C</b> Take, as appropriate, one of the four steps below:					
<b>1</b> If the outstanding total was previously returned to the Government, attach copies of the front and back of the canceled checks and/or proof that the payment was returned by ACH. Proceed with step D below.					
<b>2</b> If the amount in the account is equal to or exceeds the outstanding total, prepare one ACH return for each full payment described above. The ACH return method should always be used when returning one or more full payments. Proceed with step D below.					
<b>3</b> If the amount in the account is less than the outstanding total, and there is...					
a.(1) only one payment listed above, then return the partial payment by check. (See 3b). a.(2) more than one payment listed above, then prepare ACH return(s) for amount(s) equal to each full payment. Any remaining amount that does not equal a full payment must be returned by check. (See 3b). b. Prepare a check made payable to: <b>ONLY FOR AMOUNTS LESS THAN ONE FULL PAYMENT.</b>					
(Note: The amount in the account includes any additions to the account balance made after the receipt of this NOTICE.) Provide the names and addresses of the withdrawers on the back of the DISBURSING OFFICE COPY. If it is a true statement of fact, you must sign Certification No. 2 on the back of the DISBURSING OFFICE COPY. Proceed with Step D below.					
<b>4</b> If the amount in the account is zero and no funds are available to return to the Government, provide the names and addresses of the withdrawers on the back of the DISBURSING OFFICE COPY. If it is a true statement of fact, you must sign Certification No. 3 on the back of the DISBURSING OFFICE COPY. Proceed with Step D below.					
<b>D</b> Unless the outstanding total is returned by ACH within 45 days of the date on this NOTICE, return the PROGRAM AGENCY and DISBURSING OFFICE COPIES of this form to the disbursing office address shown in the upper right hand corner of the form.					
YOUR FINANCIAL INSTITUTION IS LIABLE TO THE GOVERNMENT FOR THE ABOVE PAYMENT(S) AND FOR ALL GOVERNMENT BENEFIT PAYMENTS RECEIVED AFTER THE DEATH OR LEGAL INCAPACITY OF THE RECIPIENT OR THE DEATH OF THE BENEFICIARY AS SET FORTH IN 31 CFR PART 200. YOU MUST TAKE THE APPROPRIATE STEPS OUTLINED IN A THROUGH D ABOVE AND IN THE GREEN BOOK INSTRUCTIONS IN ORDER TO LIMIT YOUR LIABILITY. (SEE GREEN BOOK, RECLAMATIONS CHAPTER for detailed instructions.)					
IF YOU DO NOT RESPOND APPROPRIATELY WITHIN 90 DAYS FROM THE DATE OF THIS REQUEST, YOU WILL NOT LIMIT YOUR LIABILITY AND YOUR FEDERAL RESERVE ACCOUNT OR THE ACCOUNT OF YOUR CORRESPONDENT WILL BE DEBITED FOR THE OUTSTANDING TOTAL.					
ROUTING NUMBER TO:			TO BE COMPLETED BY PROGRAM AGENCY \$ Amount Received      \$ Amount to Receive Signature _____ Date _____ DEPARTMENT OF THE TREASURY FINANCIAL MANAGEMENT SERVICE PROGRAM MANAGEMENT SECTION FMS 133 5-67		

PROGRAM AGENCY COPY

### Notice of Reclamation (FMS-133), BACK

Sample: Parts 1-4 The following sample is the same for the Program Agency Copy, Program Agency File Copy, RDFI Copy and Disbursing Office Copy.

THIS BLOCK FOR DISBURSING OFFICE USE		
<b>A. Notice of Reclamation</b>		
I. Total Amount Due _____	Total Amount Refunded _____	To Be Recovered By Agency _____
II. The amount of \$ _____ was deposited for credit in the account of the _____ DISBURSING OFFICER on _____ Certificate of Deposit No. _____ dated _____ OR, 4.20 Confirmed Deposits OR, 4.10 Nat. D.O. Transaction - Station Code _____ Disbursing Officer _____ Trust Fund or Appropriation Symbol _____ DATE _____		
<b>B. Further Action</b> <input type="checkbox"/> No further action being taken. <input type="checkbox"/> Request for Debt for \$ _____ forwarded to FRB on _____		

  

THIS BLOCK FOR FINANCIAL INSTITUTION USE	
If information on the face of this form is WRONG, check appropriate box, and enter the corrections below:	
<input type="checkbox"/> Recipient/beneficiary did not die; financial institution will not take further action.	
<input type="checkbox"/> Date of death is wrong. Date of death from death certificate is _____	
<input type="checkbox"/> Adjusted Outstanding Total (total of payments received after the correct date of death): (The Adjusted Outstanding Total is used by the financial institution if it is less than the OUTSTANDING TOTAL shown on the face of this form.) \$ _____	
<input type="checkbox"/> Adjusted outstanding total is greater than outstanding total on face of this form. (See Green Book for detailed instructions.)	
IF LESS THAN THE OUTSTANDING TOTAL IS BEING PAID, PROVIDE THE NAMES AND ADDRESSES OF THE PERSONS WHO WITHDREW FROM THIS ACCOUNT: _____ _____ _____	
(If the names of withdrawers cannot be determined, provide names of co-owners or persons with access to the account and explain why names of withdrawers cannot be provided.)	
<b>CERTIFICATION NO. 1</b>  This certifies that the Notice to Account Owners form was mailed to the owners of the account at the addresses on the records of this financial institution on _____. If a correction has been made to the fact or date of death, this certifies that the date of death entered above is correct and that this financial institution took prudent measures to assure that the person is alive or that the date of death was erroneous.	<b>CERTIFICATION NO. 2</b>  In accordance with 31 CFR 210, this certifies that this financial institution received the Notice of Reclamation on _____ and first learned of the death on _____. The financial institution had no knowledge of the death or legal incapacity of the recipient or death of the beneficiary at the time any of the payments listed were credited to or withdrawn from the account. An amount equal to the amount remaining in the account, including any additions to the account balance since the receipt of this notice, has been paid to the Government.
Signed _____ Title _____ Date _____	Signed _____ Title _____ Date _____



**Notice of Reclamation (FMS-133), FRONT**

Sample: Part 5 Below is a sample of Part 5, Notice to Account Owners, of the FMS-133.

For Paperwork Reduction Act Statement and Burden Estimate Statement See Reverse Side "Notice to Account Owners" Copy				OMB NO.: 1510-0043 Expiration Date: 03/28/2000	
<b>DIRECT DEPOSIT</b> <b>ELECTRONIC FUNDS TRANSFER</b> <b>FEDERAL RECURRING PAYMENTS</b>			FROM:		
<b>NOTICE OF RECLAMATION</b>			DATE:		
RECIPIENT AND/OR BENEFICIARY NAME			CLAIM NUMBER		DATE OF DEATH
DATE OF PAYMENT	AGENCY AND/OR TYPE OF PAYMENT	TRACE NUMBER	TYPE OF ACCOUNT	DEPOSITOR ACCOUNT NUMBER	AMOUNT
AMOUNT OF PAYMENTS RECEIVED WITHIN 45 DAYS			OUTSTANDING TOTAL		

**NOTICE TO ACCOUNT OWNERS FROM THE GOVERNMENT**

The Government has received information that the person named on this notice is deceased. The purpose of this notice is to inform you that by law entitlement to Government benefits for this person ended at death. Therefore, the Government must recover all payments made after the date of death. If there has been an error and this person is not deceased, or if the date of death is wrong, this notice explains how to correct the mistake. If you do not understand this notice, please get help from either your financial institution or the Government agency that was making payments.

**PAYMENTS TO THIS PERSON HAVE BEEN STOPPED**

Your financial institution has been asked to return the payments shown on this notice to the Government because they were issued in error. The Government has asked your financial institution to send this notice to you, the account owner. Your financial institution must notify you if it has taken action to recover these funds from the account. Contact your financial institution immediately if you do not understand its actions. If the Government is unable to collect from the financial institution the full amount of the payments made after death, you may be contacted by the agency which made the payments.

**IF THE PERSON IS NOT DECEASED**

If the person is not deceased, immediately contact both your financial institution and the agency that made the payments to correct the error. The Government regrets any inconvenience this error may cause. Your financial institution can correct the collection action if it is given satisfactory proof that the person is alive. **NOTE: YOU MUST CONTACT THE AGENCY THAT MADE THE PAYMENTS BECAUSE THIS ERROR HAS STOPPED FURTHER PAYMENTS. ONLY THE AGENCY CAN RESTART THE PAYMENTS.**

**NOTICE TO ACCOUNT OWNERS**

## ***Notice of Reclamation (FMS-133), BACK***

Sample: Part 5 Below is a sample of Part 5, Notice to Account Owners, of the FMS-133.

### IF THE DATE OF DEATH IS WRONG

If the date of death shown is wrong, immediately show your financial institution a copy of the death certificate which will permit it to make any needed adjustment to the amount it must return to the Government. If it is inconvenient to go to the financial institution, bring this notice and a death certificate to the agency that made the payments so correction may be made. The agency that made the payments is shown using these abbreviations:

SOCIAL SECURITY ADMINISTRATION: RSI-SSA; DIB-SSA; RSI-SSI

DEPARTMENT OF VETERANS AFFAIRS: VA

OFFICE OF PERSONNEL MANAGEMENT: OPM

RAILROAD RETIREMENT BOARD: RRB

OTHER AGENCY ABBREVIATIONS: AF RET PAY, ARMY RET, ARMY BEN,

MarCorRet, MarCorAnn, NAVYRET, NAVY ANN, CIADSANNU

### SURVIVOR BENEFITS

Persons related to the deceased may qualify for survivor payments. Survivors should contact the agency that made payments to determine whether they are eligible.

#### **NOTICE FOR FINANCIAL INSTITUTION ONLY**

##### **Paperwork Reduction Act and Privacy Act Statement**

By authority of 5 USC 301, 12 USC 391, and Title 31, Code of Federal Regulations, Part 210, the information requested on these forms is mandatory in order for Treasury to recover from your organization one or more Electronic Funds Transfer payments which the recipient or beneficiary named was not entitled to receive. Failure to provide all the required information and to return an amount equal to the amount in the account (up to the total being reclaimed) before the deadline may cause Treasury to contact your Federal Reserve bank to automatically debit your account (or that of your correspondent).

##### **Burden Estimate Statement**

The estimated average time (burden hours) associated with filling out this paperwork is 12 minutes per respondent or recordkeeper, depending on individual circumstances. Comments concerning the accuracy of this time estimate and suggestions for reducing the burden associated with the time spent collecting this information should be directed to the Financial Management Service, Facilities Management Division, Property & Supply Section, 3361-L 75th Avenue, Landover, MD, 20785 and the Office of Management and Budget, Paperwork Reduction Project (1510-0043), Washington, D.C. 20503. **THIS ADDRESS SHOULD ONLY BE USED FOR COMMENTS AND/OR SUGGESTIONS CONCERNING THE AMOUNT OF TIME SPENT TO COLLECT THIS DATA. DO NOT SEND THE COMPLETED PAPERWORK TO THE ADDRESS ABOVE FOR PROCESSING.**

***General Reclamation Guidelines:***

1. The ACH return method must be used when returning a full payment in response to a Notice of Reclamation. (By doing so, the RDFI will obtain automated, precise, complete, and permanent credit for what it returns. Such a credit will then also prevent any further claims for the same payment.) When returning a partial payment (i.e., any amount less than a full ACH payment), you must use a check and attach a copy of the relevant Notice of Reclamation with the total of the partial payment listed on the reverse of the Notice of Reclamation.
2. When responding to the Notice of Reclamation, the RDFI only needs to sign the required Certifications (as long as they are correct statements of fact) on the Disbursing Office copy of the form. There is no need to sign multiple pages or copies of the same form. The RDFI must return three (3) copies of the form—keeping its own copy, and forwarding the Notice to Account Owners.
3. The RDFI signature must be in black or dark blue ink. No other ink colors, pencil, rubber-stamped, or other reproduced signatures will be accepted. The signature must include at least the signer's first initial and last name. The signer's title and the date signed (in the signature block) may be rubber-stamped or reproduced.
4. When returning the Notice of Reclamation, or writing the government about the Reclamation before the deadline, the RDFI must use the address of the Government Disbursing Office found at the top right corner of the reclamation. Only the Government Disbursing Office has the files on this case. Replying to any other address may risk full liability for the RDFI if the deadline expires.

***Incomplete or Inadequate RDFI Replies:***

The government may reject an incomplete or inadequate reclamation back to the RDFI only one time, clearly indicating what is lacking. If the RDFI's subsequent reply is still incomplete or inadequate, the government will not reject it again. Instead, the government will proceed to a full debit action.

Also, if an inadequate reclamation is received by the government two (2) business days or less before the Reclamation's deadline, the government will not reject it, due to lack of time. Instead, the government will proceed to a full debit action.



**Table 3-B How to Respond to the Notice of Reclamation**

1. Immediately determine the account balance amount. While not required under 31 CFR 210, it is in the RDFI's interest to protect the funds or return immediately any remaining balance up to the amount of the Reclamation. This minimizes the risk of incurring liability for the withdrawal of any post-death benefit payments.
2. Check for other types of Federal benefit payments that the deceased may have been receiving and take steps to ensure prompt return of all subsequent post-death benefit payments.  
If the account remains open and additional Federal benefit payments are credited to the account before the RDFI replies, then those deposits become part of the amount which must be paid in response to the Notice of Reclamation, not to exceed the outstanding total.
3. Immediately mail the Notice to Account Owners\* (Part 5) to the last known address(es) of the account owner(s).
4. Notify the account owner(s) of any action that the RDFI has taken or plans to take against the account.
5. If you have met the criteria listed in steps 1 - 4 and have also complied with the Limiting Liability section on page 5-5, then proceed to 5b and then 6. If not, proceed only to 5a.

**5a. Steps to take Under Full Liability**

Respond to the Notice of Reclamation so that it is received by the Government Disbursing Office within 60 days from the date of the Notice.

If the RDFI fails to meet the qualifications for limiting its liability, it is liable for all benefit payments received after the death or legal incapacity of a recipient or death of a beneficiary. The RDFI must return all post-death payments listed on the Reclamation and any subsequent benefit payments received after receipt of the Reclamation, so that payments are received by the Government Disbursing Office within 60 days of the date on the Reclamation.

This is the final action RDFIs take under full liability.

*continued next page >*

\* Some withdrawers may wish to restore all or part of the withdrawn post-death payments to the account upon receipt of a Notice of Reclamation to Account Owners. Repayment to the account by the withdrawer upon receipt of the Notice of Reclamation is not required or requested by the government.

**Table 3-B How to Respond to the Notice of Reclamation (continued)****5b. Steps to take Under Limited Liability**

Respond to the Notice of Reclamation so that it is received by the Government Disbursing Office within 60 days from the date on the Notice.

IF the <b>outstanding total**</b> was	THEN
Previously repaid to the Federal government (e.g. by the beneficiary's survivor).	The RDFI's obligation to the Federal government has been satisfied and the RDFI must return the Notice of Reclamation, attaching proof of the repayment, so that it is received by the Government Disbursing Office within 60 days of the date on the Notice. (See Types of Evidence, p. 5-24).
6. IF the account balance amount is	THEN
Equal to or greater than the outstanding total	<p>The RDFI must return the full amount listed on the Notice of Reclamation by ACH, not to exceed the outstanding total, within 60 days of the date on the Notice.</p> <p>The RDFI must also return the Notice of Reclamation so that it is received by the Government Disbursing Office within 60 days of the date on the Notice.</p> <p>Complete and sign Certification #1*** and, if the RDFI had no knowledge of the death at the time the payment(s) was received, also sign, Certification #2**** on the back of the Disbursing Office Copy of the Notice of Reclamation. Original signatures are required.</p>
Less than the outstanding total	<p>Return an amount equal to the account balance.</p> <p>Complete and sign Certification #1*** and, if the RDFI had no knowledge of the death at the</p>

*continued next page>*

\*\* The Outstanding Total is the sum of all Federal benefit payments received after death or legal incapacity, minus any amount returned to or recovered by the government.

\*\*\* Certification #1 on the back of the Disbursing Office copy of the Notice of Reclamation certifies that: the Notice to Account Owners was sent; account owners were notified of any action the RDFI has taken or plans to take against the account; and, the RDFI took proper corrective action regarding any error in date of or fact of death.

(continued from previous page)

time the payment(s) was received, also sign Certification #2\*\*\*\* on the back of the Disbursing Office Copy of the Notice of Reclamation. Original signatures are required.

If the Notice of Reclamation is incorrect due to error in fact or date of death see (page 5-24).

Provide a statement to the Government Disbursing Office with the following information:

- name(s) and most current address(es) of any person(s) who withdrew funds from the account after the death; including dates, times, and amounts of all withdrawals, including ATM, debit card, or by fraudulent means; name(s) and address(es) of all account co-owner(s), authorized signers, or all persons authorized to use the ATM or debit card; or if that is not possible, reasons why the above information cannot be provided.

Acceptable proof of payment can be...

- a statement of the date of return, if returned by ACH; or,
- copies of canceled checks used to return any partial payments (include front and back of check).

If the Government Disbursing Office rejects the proof, it will send the RDFI a Reject Notice (FMS-2940).

The Disbursing Office or authorizing Federal agency will verify whether the ACH returns were accepted. If all ACH returns were not accepted or if only a partial amount was repaid, the RDFI is still liable for the balance and the reclamation process continues.

**Note:** Retain your copy of the Notice of Reclamation, including your reply, and any returns for your records.



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\*\*\*\* Certification #2 on the back of the Disbursing Office copy of the Notice of Reclamation, certifies that the RDFI had no actual or constructive knowledge of the death at the time of deposit or withdrawal of any of the post-death payments; and, that the RDFI has returned the amount of the account balance to the government.

### ***Time Limits for Federal Reclamations***

1. **INITIATION OF RECLAMATION:** The authorizing Federal agency must initiate the reclamation within 120 days after the date that the agency receives notice of the death or legal incapacity of the recipient.
2. **SCOPE OF RECLAMATION:** An RDFI is not liable for any post-death benefit payments made more than six years prior to the most recent payment of that same type, except under the following circumstance:

“If the account balance at the time the RDFI receives the notice of reclamation exceeds the total amount of all post-death or post-incapacity payments made by the agency during such six-year period, this limitation shall not apply and the RDFI shall be liable for the total amount of all payments made, up to the amount in the account at the time the RDFI receives the Notice of Reclamation and has had a reasonable opportunity (not to exceed one business day) to act on the notice.” [31 CFR Part 210.10(d)]
3. **RDFI REACTION TIME:** The RDFI, upon receipt of the government’s Notice of Reclamation, has UP TO ONE BUSINESS DAY to react to that Reclamation by determining the account balance, and by preventing any further withdrawals from the account, if possible under the terms of the contract with the account holder.
4. **RDFI RESPONSE DEADLINE:** The RDFI has up to 60 days from the issue date of the Reclamation to provide a full and accurate response to the proper Government Disbursing Office. Failure to respond timely may result in a debit to the RDFI’s Federal Reserve account or the account of its correspondent for the total amount of the Reclamation. This debit action will be final.



**Note:** *If the Reclamation deadline is imminent, the RDFI should consider using overnight mail or some similar means to be sure to meet the government’s deadline. If the RDFI wants proof it met the deadline, it should consider using Certified “return receipt” mail or similar means for a signed receipt.*

### ***Follow-up to the Notice of Reclamation (FMS-2942)***

A Follow-Up Notice is sent if the Government Disbursing Office failed to receive any response within 30 days of the Notice of Reclamation; or, if the RDFI’s response to the Notice of Reclamation was incomplete or inaccurate.

A Follow-Up Notice is a reminder to the RDFI that a response must be received by the Government Disbursing Office no later than 30 days or the RDFI will forfeit the right to limit its liability.

**A copy of the original Notice of Reclamation is attached to the Follow-Up Notice.** Any questions regarding this matter should be directed to the Government Disbursing Office shown in the upper right corner of the Notice of Reclamation.

### ***Federal Agency Collection from Withdrawers***

If all or part of the post-death payments have been withdrawn from the account before the RDFI learns of the death, and the RDFI properly responds to the Reclamation and is qualified to limit its liability, the authorizing Federal agency will then attempt to collect the outstanding total from the withdrawer(s).

If the authorizing Federal agency is unsuccessful in collecting all of the outstanding total from the withdrawer(s), the RDFI's remaining liability (the 45-day amount) will be collected by debiting the RDFI's or its correspondent's Federal Reserve account.

### ***Debit of the RDFI's Account (FMS-135)***

If the RDFI fails to respond completely and accurately to a Notice of Reclamation by the due date, the Government Disbursing Office will send the Request for Debit (FMS-135) to the Federal Reserve to debit the RDFI's Federal Reserve or its correspondent account for the full amount of its outstanding liability. This debit action is final.

The table below shows when the authorizing Federal agency can exercise its authority to have an RDFI's Federal Reserve account debited.

**Table 3-C**

**If the RDFI:**

**Then its (or its correspondent's) reserve account:**

Fails to respond accurately and completely to the Notice of Reclamation	will be debited for the outstanding total.
Fails to respond within the 60-day time limit of the Notice of Reclamation	
Responds accurately, completely, and timely, (i.e., limited its liability) but the authorizing Federal agency cannot collect the outstanding total from the withdrawers	will be debited for the 45-day amount not to exceed the outstanding total.

*Sample FMS-2942, Follow-up Notice*

<b>DIRECT DEPOSIT</b> ELECTRONIC FUNDS TRANSFER FEDERAL RECURRING PAYMENTS  FOLLOW-UP TO NOTICE OF RECLAMATION		FROM:   DATE:
REFERENCE:	NOTICE OF RECLAMATION DATED: _____ (Copy Attached)	
FOR:	_____ (Name) (Claim Number)	
<p>Your financial institution did not properly respond to the attached Notice of Reclamation as required by 31 CFR Part 210. In order to avoid the possibility of a debit to your Federal Reserve account or the account of your correspondent, a properly completed Notice of Reclamation must be received by this office within 30 days from the date of this notice.</p>		
ROUTING NUMBER: TO:		          <small>           OFFICE OF THE ASSISTANT            TREASURER FOR FINANCIAL MANAGEMENT            FEDERAL RESERVE SYSTEM            PMS 9942-0-001 EDITION OF 10-94 IS OBSOLETE         </small>

FINANCIAL ORGANIZATION COPY

*Sample FMS-135, Request for Debit of the RDFI's Account*

For Paperwork Reduction Act Statement and Burden Estimate Statement See Reverse Side "Financial Institution Copy"		OMB NO.: 1510-0043	
<b>FMS FORM 135</b> EDITION OF 3-88 IS OBSOLETE DEPARTMENT OF THE TREASURY FINANCIAL MANAGEMENT SERVICE		<b>REQUEST FOR DEBIT</b> <b>ELECTRONIC FUNDS TRANSFER</b> <b>FEDERAL RECURRING PAYMENTS</b>	
TO: FEDERAL RESERVE BANK		ROUTING NO. OF FINANCIAL INSTITUTION	
		AMOUNT TO BE DEBITED	
		\$	
		CLAIM NUMBER	
FROM: DEPARTMENT OF THE TREASURY		NAME OF REPRESENTATIVE PAYEE AND/OR BENEFICIARY	
		DEPOSITOR ACCOUNT NUMBER	
AUTHORIZED BY		TYPE OF ACCOUNT	
DATE			
<p>Please debit the appropriate account for the above identified financial institution for the above amount which represents liability to the Government for recurring payments issued after the date of non-entitlement due to the death or legal incapacity for the individual shown.</p> <p>Please complete the attached SF-215, Certificate of Deposit, debit the appropriate account for the above financial institution, make the appropriate entry on the Treasury's daily transcript, and complete the information below on all copies of the Request for Debit.</p> <p>The original and D copy of the Request for Debit and the attachments should be forwarded to the above financial institution. The A &amp; B copies of the Request for Debit should be returned to the Treasury Financial Center above. The C copy is for your records.</p>			
ENCLOSURE			
TO BE COMPLETED BY FRB			
CERTIFICATE OF DEPOSIT NO.		DATE OF DEPOSIT	
<div style="border: 1px solid black; height: 100px; width: 100%;"></div>			
FINANCIAL INSTITUTION COPY			

### ***How to Prevent or Limit the Amount of a Debit to the RDFI's Federal Reserve Account***

RDFIs should make certain that their processing of government Reclamations is carefully controlled and monitored, and that all employees responsible for handling Reclamations are thoroughly familiar with the rules and procedures.

- As soon as any RDFI employee learns of a death, he/she must immediately pass the information to RDFI employees responsible for handling Federal benefit payments. The RDFI has one business day to act on such information.
- Notify all paying benefit agencies of the death.
- Return immediately, by ACH, any subsequent post-death benefit payments to the Government Disbursing Office.
- Respond to the Notice of Reclamation accurately, completely, and promptly.
- Anything an RDFI can do to learn of the death of recipients sooner will help to minimize the chances of a debit action.



**Note:** ACH Return Reason Code R15 constitutes proper notification to the Federal Agency.

### **C. Errors in Death**

#### ***If the Person did not Die***

The RDFI is authorized by the government to terminate the reclamation if it obtains satisfactory proof that the recipient or beneficiary is alive.

In such cases, the RDFI must still return the Notice of Reclamation on time. Failure to respond to the Notice of Reclamation so that it is received by the Government Disbursing Office within 60 days from the date of the Notice, will result in a debit to the RDFI's or its correspondent's account at the Federal Reserve for the outstanding total. Such debits can be restored only after a verification process by the authorizing Federal agency.

#### ***Types of Evidence***

The following are acceptable types of proof for verifying that the person did not die:

- Driver's license or other evidence similar to that required for cashing a check, if the recipient or beneficiary appears at the RDFI.
- A signed, dated, and notarized statement attesting to the fact that the recipient or beneficiary is alive if, he/she is unable to appear at the RDFI.
- A written statement from the authorizing Federal agency verifying that the recipient or beneficiary is alive.

The RDFI is not obligated to accept the proof or to contact the authorizing Federal agency if any disagreements or questions arise with the person presenting the proof. Prudence is



required, as the action taken by the RDFI may affect its liability. Disagreements will be adjudicated by the authorizing Federal agency after it has been contacted by the person presenting the proof.

### ***Accepting the Proof***

The table below shows what actions the RDFI must take if it accepts the proof that the person did not die.

**Table 3-D**

**Step Action**

1	Correct the error in the fact of death on the Disbursing Office Copy of the Notice of Reclamation.
2	Sign Certification #1 on the back of the Disbursing Office Copy of the Reclamation, certifying that a correction has been made.
3	Timely return the Notice of Reclamation with a copy of proof of error in fact of death to the Government Disbursing Office.
4	Advise the recipient to contact the authorizing Federal agency to restart payments.

### ***Rejecting the Proof***

The table below shows the actions the RDFI must take if it rejects the proof that the person did not die.

**Table 3-E**

**Step Action**

1	Continue to process the Notice of Reclamation, which includes sending the Notice of Reclamation to Account Owners.
2	Refer the person presenting the proof to the Federal agency.
3	Notify the account owner(s) to provide a written statement from the Federal agency verifying that the recipient or beneficiary is alive, or the reclamation process will continue.

### ***Restarting Payments***

Once a reclamation has been processed, all further benefit payments will be stopped. Presenting acceptable proof that the death report was in error and stopping the reclamation process does not restart the payments. The recipient or beneficiary must contact the authorizing Federal agency to restart the payments and to re-enroll for Direct Deposit.

### ***If the Date of Death is Wrong***

The RDFI is authorized to adjust the outstanding total, provided it obtains acceptable proof that the date of death shown on the Notice of Reclamation is wrong.



**Note:** RDFIs are only authorized to make adjustments to the outstanding total if there is an error in the month or year of death.

The **only acceptable proof** of an error in the date of death is a **copy of the death certificate**.

### ***Day of the Month is Wrong***

The table below shows the actions the RDFI needs to take if the day of the month is wrong.

**Table 3-F**

IF	THEN	AND
only the day of the month of death is wrong	The RDFI must provide a copy of the death certificate with the correct day of death in its response because this could affect the calculation of the limited liability amount.	The RDFI must respond timely to the Notice of Reclamation.
	<b>Note:</b> DO NOT make any adjustments to the outstanding total.	

### ***Month or Year is Wrong***

The table below shows the actions the RDFI must take if the month or the year is wrong.

**Table 3-G**

Step	Action
1. Enter the correct date of death on the back of the Disbursing Office Copy of the Notice of Reclamation.	
2. IF the correct date of death is	THEN
Later than the reported date of death	go to Step 3.
Earlier than the reported date of death	the RDFI must... Inform the account owners of the error; and, check the appropriate box on the back of the Disbursing Office Copy of the Notice of

*continued next page >*

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Reclamation; and, pay the amount listed on the Notice of Reclamation.

**Note:** Additional payments will be collected by a Subsequent Reclamation. However, if the RDFI is aware of any additional post-death benefit payments, it is in their best interest to return them immediately. Refer to Subsequent Reclamations, page 5-28. Go to step 6.

- 
3. Sign Certification #1 on the back of the Disbursing Office Copy of the Notice of Reclamation.
- 
4. Complete the worksheet for adjusting the outstanding total. Refer to page 5-28.
- 
5. Pay the appropriate amount using the adjusted outstanding total. If the amount returned is less than the adjusted outstanding total...
    - sign Certification #2 on the back of the Disbursing Office Copy of the Notice of Reclamation; and,
    - list by name and address all withdrawers, co-owners, and authorized signers, as described in, Step 6.
- 
6. Return the completed Notice of Reclamation so it is received by the Government Disbursing Office within 60 days of the date on the Notice.
- 

**Note:** If the outstanding total was adjusted, a copy of the worksheet or a brief explanation of the adjustment must be included with the Notice of Reclamation.



### ***Learning of an Error After Completing a Reclamation***

If the RDFI learns of an error in the date of death after returning a completed Notice of Reclamation and it has already satisfied its liability, it should contact the authorizing Federal agency (based on the payment type listed on the Notice of Reclamation) to make the appropriate adjustment.

If the RDFI is due a refund, the RDFI must provide supporting documentation to the authorizing Federal agency.

**Note:** Only the authorizing Federal agency can make adjustments at this stage. Do not contact the Government Disbursing Office.



### ***Worksheet for Adjusting the Outstanding Total if the Date of Death is Wrong***

The worksheet must be used by the RDFI to calculate the adjusted total if there is an error in the date of death. When an RDFI needs to make an adjustment, it must photocopy the worksheet (Table 3-H), and return it with the Notice of Reclamation.

**Table 3-H**

	PMT 1	PMT 2	PMT 3	PMT 4
List the month/day/year of each payment shown on the Reclamation form.	_____	_____	_____	_____
For each payment (shown on the Reclamation) did the person die before the date of the payment? (Enter "yes" or "no")	_____	_____	_____	_____
For each "yes", enter the dollar amount of the payment. (Do not enter the dollar amount if "no.")	_____	_____	_____	_____
Total all "yes" payments    \$_____				
(This is the adjusted outstanding total to use on the Notice of Reclamation).				



**Note:** The RDFI must photocopy the worksheet and return with the Notice of Reclamation. If the worksheet is not completed and returned, it may delay the process and/or cause the Notice of Reclamation to reject.

### **D. Subsequent Notice of Reclamation**

The government may issue a subsequent Notice of Reclamation if the original Notice of Reclamation did not list all post-death benefit payments.

A subsequent Reclamation will be issued if the date of death was earlier than shown on the original Notice of Reclamation, resulting in additional post-death payments that should be recovered.

#### ***What to do***

The table below shows what actions the RDFI must take if it receives a subsequent Reclamation:

**Table 3-I**

**Step    Action**

1	Respond as it would to an original Notice of Reclamation (See Table 3-B, p. 5-17)
2	Attach a brief cover letter, indicating that this is a subsequent Notice of Reclamation and cite the date of the original Notice of Reclamation.

***Previous debit***

If the RDFI has already been debited on a reclamation case, it will not be debited for an additional 45-day amount on a subsequent Reclamation on the same case, provided it qualified to limit its liability in response to the original Notice of Reclamation. However, the RDFI is still required to respond to all official Notices of Reclamation in order to maintain its limited liability.

**E. Contacts****Regional Financial Centers Claims Telephone Numbers**

<b>Center</b>	<b>Telephone</b>
Philadelphia Financial Center . . . . .	(215) 516-8154
Kansas City Financial Center. . . . .	(816) 414-2150
Austin Financial Center . . . . .	(512) 342-7261
San Francisco Financial Center. . . . .	(415) 817-7183